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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 KATHLEEN LINGAFELTER,

11 Plaintiff,

12 v.

13 MICHAEL J. ASTRUE,

14 Defendant.

CASE NO. C12-0588JLR

ORDER ADOPTING REPORT
AND RECOMMENDATIONS

15 **I. INTRODUCTION**

16 This matter comes before the court on the Report and Recommendation of United
17 States Magistrate Judge Mary Alice Theiler (Rpt. & Rec. (Dkt. # 25)) ("R&R"), and Ms.
18 Lingafelter's objections thereto (Objections (Dkt. # 26)). Having carefully reviewed all
19 of the foregoing, along with all other relevant documents, and the governing law, the
20 court ADOPTS the R&R (Dkt. # 25), AFFIRMS the decision of the Commissioner, and
21 ORDERS the Clerk to direct copies of this Order to all counsel and to Judge Theiler.

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I. BACKGROUND

Plaintiff challenges a disability determination made by an administrative law judge (“ALJ”). Plaintiff alleges she is disabled because she is obese, has nerve damage, and suffers from leg, back, shoulder, and knee pain. She applied for disability benefits, but was denied. She requested reconsideration of this decision and was denied. She then requested a hearing in front of an ALJ. The hearing was held, and the ALJ denied her application again, finding that she was not disabled and finding much of her testimony to be not credible. Plaintiff appealed to the Appeals Council, which denied her request for review, and finally she appealed to this court. Judge Theiler considered the appeal and issued an R&R recommending that this court affirm the decision below.

II. STANDARD OF REVIEW

A district court has jurisdiction to review a Magistrate Judge’s report and recommendation on dispositive matters. Fed. R. Civ. P. 72(b). “The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” *Id.* “A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). The court reviews de novo those portions of the report and recommendation to which specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). “The statute makes it clear that the district judge must review the magistrate judge’s findings and recommendations de novo if objection is made, but not otherwise.” *Id.*

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III. DISCUSSION

None of Plaintiff's objections raise any novel issues that were not addressed by Judge Theiler's R&R. The court has thoroughly examined the R&R and finds it persuasive. Although Plaintiff may disagree with the ALJ's conclusions, her objection contains no factual basis or discussion of relevant law that would justify rejecting the ALJ's sound reasoning.

Plaintiff essentially reargues the arguments she made to Judge Theiler, and the court independently rejects them for the same reasons as Judge Theiler. Plaintiff asks the court to overturn the ALJ's factual findings and credibility determinations, arguing that they are not supported by substantial evidence. The court has reviewed the record and concludes that substantial evidence supports all of the ALJ's findings.

IV. CONCLUSION

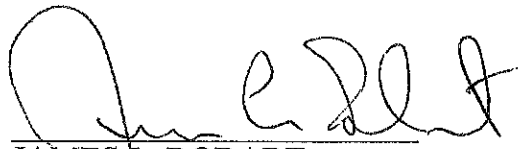
For the foregoing reasons, the court hereby ORDERS as follows:

(1) The court ADOPTS the Report and Recommendation (Dkt. # 25) in its entirety;

(2) The court AFFIRMS the decision of the Commissioner in this case; and

(3) The court DIRECTS the Clerk to send copies of this Order to Plaintiff, to counsel for respondent and to Magistrate Judge Theiler.

Dated this ND 22 day of January, 2013.


JAMES L. ROBART
United States District Judge